

1635
PATENTS

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re Application of:

Docket No. 19720-0625 (42869-261843)

Emanuele et al.

Serial No. 09/919,504

Filed: July 31, 2001

For: Therapeutic Delivery Compositions and Methods of Use Thereof

Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

Transmitted herewith is a paper in the above-identified application.

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- ☒ Response to Restriction Requirement.
☒ Applicant claims small entity status.
☒ No additional fee is required.
☐ The additional fee is calculated as shown below:

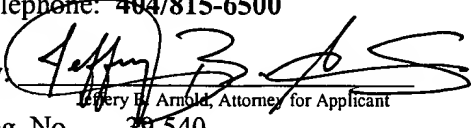
					SMALL ENTITY		OTHER THAN SMALL ENTITY			
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE	ADDIT. FEE		RATE	ADDIT. FEE
TOTAL		MINUS	=			x9	\$		x18	\$
INDEP.		MINUS	=			x42	\$		x84	\$
FIRST PRESENTATION OF										
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIMS						+140	\$		+280	\$
					TOTAL ADDITIONAL FEE			\$0	\$	

- ☐ A check in the amount of \$ is attached.
☒ The Commissioner is hereby authorized to charge any additional fees required under 37 CFR §1.16, or credit any overpayment, to Account No. 11-0855. A duplicate copy of this sheet is enclosed.

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with the United States Postal Service as first class mail in an
envelope addressed to: Commissioner for Patents,
Washington, D.C. 20231, on October 25, 2002.

Signature:  Jeffrey B. Arnold - Reg. No. 39,540

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By: 
Jeffery B. Arnold, Attorney for Applicant
Reg. No. 39,540



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In re Application of:

Emanuele et al.

Serial No. 09/919,504

Filed: July 31, 2001

For: Therapeutic Delivery Compositions
and Methods of Use Thereof

Examiner: Schnizer, R.A.

Art Unit: 1635

8 / K.T.
10/31
ELECTION

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, DC 20231

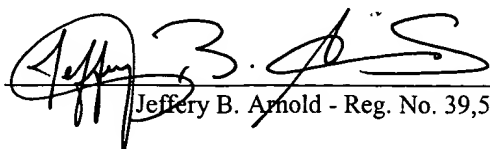
Sir:

In response to the outstanding Election/Restriction Requirement mailed September 27, 2002, the period for response which expires on October 27, 2002, Applicants respectfully request examination in view of the following remarks.

Although it is not stated, the outstanding Election/Restriction Requirement apparently has two species restrictions. Applicants note that the claims respectively specified in Groups I-III are the same. Likewise, the Examiner has apparently issued a species restriction with respect to Groups IV-VI. Accordingly, Applicants hereby elect the Group I claims, Claims 1-18, 20-22, 28-30, and 34-36, and the species represented by the Group I claims. According to the outstanding Election/Restriction Requirement, the Group I claims are drawn to a therapeutic composition comprising a non-nucleic acid compound admixed with a block copolymer, classified in class 514, subclass 1.

Also according to the outstanding Election/Restriction Requirement, the Group IV claims, Claims 19, 23-27, 31-33, 37, and 38, are drawn to a method for delivering to an animal a

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Jeffery B. Arnold - Reg. No. 39,540

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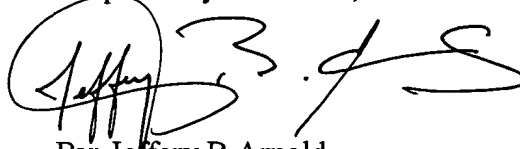
non-nucleic acid compound admixed with a block copolymer. The Group IV claims are also classified in class 514, subclass 1. Applicants respectfully remind the Examiner that M.P.E.P. § 806.05(i) states:

where the product claims are allowable, restriction may be required only where the process of making and the product made are distinct; otherwise, the process of using must be joined with the process of making and product made, even if the showing of distinctness can be made between the product and process of using.

As such, Applicants submit that upon a determination of allowable subject matter in the Group I claims, the Group IV claims must be joined. Further, pursuant to M.P.E.P. § 808.02(C), where "the classification is the same and the field of search is the same and there is no clear indication of separate future classification and the field of search, no reasons exist for dividing among related inventions." (Emphasis added.) Applicants respectfully assert that the Group I and Group IV claims are classified in the same class and subclass and are so closely related that the search for each claim will overlap. Accordingly, Applicants respectfully request that the Examiner withdraw the restriction requirement between the Group I and Group IV claims.

The foregoing is submitted as a full and complete response to the outstanding Election/Restriction requirement. Early and favorable consideration of the claims is requested. If the Examiner believes any informalities remain in the application which may be corrected by Examiner's amendment, or there are any other issues which can be resolved by telephone interview, a telephone conference to the undersigned attorney at (404) 745-2461 is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffery B. Arnold", with a stylized flourish at the end.

By: Jeffery B Arnold
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